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APR 16 2004

OFFICE OF PETITIONS

In re Application of
Moncrieff, Waldron, Grimes, Gunnerman
Application No. 10/659,046
Filed: September 9, 2003
Attorney Docket No. CFT-011CIA
For: METHOD FOR MANUFACTURING AN EMULSIFIED
FUEL

:
:
: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)
:

This is a decision on the petition under 37 CFR 1.47(a) filed March 1, 2004.

The petition under 37 CFR 1.47(a) is **dismissed**.

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)."

The above-identified application was filed on September 9, 2003, without a proper oath or declaration. Accordingly, a "Notice to File Missing Parts of Nonprovisional Application" was mailed on December 1, 2003, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration, and filing and claim fees. The instant petition and exhibits were filed on March 1, 2004, along with a request for an extension of time within the first month.

A grantable petition under 37 CFR 1.47(a) requires:

- (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);
- (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
- (3) the petition fee,
- (4) a statement of the last known address of the non-signing inventor,

The instant petition lacks item (1) as set forth above.

As to item (1), the statement as to the alleged refusal of inventor Gunnerman to join the application cannot be accepted because it is offered by a person that does not have first-hand knowledge of the refusal. Section 409.03(d) of the *Manual of Patent Examining Procedure* provides, in pertinent part, that:

[w]here a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

The statement relative to inventor Gunnerman's alleged refusal to join application is authored by Mr. Daniel Klaisch, but the refusal was made to Mr. Carlos V. Duno. In order for the statement of Mr. Gunnerman's refusal to be acceptable, the statement must come from Mr. Duno as he was the person that presented the application papers to inventor Gunnerman and to whom the refusal was allegedly made.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
 Commissioner for Patents,
 PO Box 1450
 Alexandria, VA 22313-1450

By FAX: (703) 872-9306
 Attn: Office of Petitions

Telephone inquiries should be directed to the undersigned (703) 305-0010.



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